

REMARKS

Applicants respectfully request reconsideration of this application as amended.

Office Action Rejections Summary

Claims 1, 3, 13, 38, 40, and 50 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,222,820 of Hamami ("Hamami").

Claims 25, 27, and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami.

Claims 2, 26, and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of "ATM/IP in the 21st Century" of Phillips ("Phillips").

Claims 4, 5, 7-9, 14-16, 18, 19, 24, 28, 29, 31-33, 41, 42, and 44-46 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of U.S. Patent No. 6,424,629 of Rubino et al. ("Rubino").

Claims 6, 10-12, 17, 20-23, 30, 34-36, 43, and 47-49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of Rubino in further view of "Monitoring and Control of ATM Networks Using Special Cells" to Chen et al. ("Chen").

Status of Claims

Claims 2-13, 15-24, 26-27 and 39-50 are pending in the application. Claims 4, 15, 28 and 41 have been amended to include limitations from their respective independent claim. Claims 2, 3, 9, 13, 24, 26, 27, 33, 37, 39, 40, 46 and 50 have been amended to depend from a respective pending claim. The amended claims are supported by the specification. No claims have been added. No new matter has been added. Claims 1, 14, 25 and 38 have been canceled.

Claim Rejections

Claims 1, 3, 13, 38, 40, and 50 have been rejected under 35 U.S.C. §102(e) as being anticipated by Hamami. Claims 1 and 38 have been canceled. Therefore, the rejection with respect to claims 1 and 38 (and dependent claims 3, 13, 40 and 50) is moot.

Claims 25, 27, and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami. Claim 25 has been canceled. Therefore, the rejection with respect to claim 25 and its dependent claims 27 and 37 is moot.

Claims 2, 26 and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of "ATM/IP in the 21st Century" of Phillips ("Phillips"). Claims 2, 26 and 39 were originally dependent from claims 1, 25 and 38, respectively. Claims 1, 25 and 38 have been canceled and therefore, the rejection with respect to claims 2, 26, and 39 based on their originally dependency is moot.

Claims 4, 5, 7-9, 14-16, 18, 19, 24, 28, 29, 31-33, 41, 42, and 44-46 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of U.S. Patent No. 6,424,629 of Rubino et al. ("Rubino"). Applicant submits that claim 4 is patentable over the cited references.

Claim 4 recites:

A method comprising:

transmitting data along a first virtual circuit of a plurality of virtual circuits in a network and **a plurality of detecting cells along said first virtual circuit and a second virtual circuit** of said plurality of virtual circuits;
detecting a failure on said first virtual circuit; and
switching transmission of said data from said first virtual circuit to a second virtual circuit of said plurality of virtual circuits in said network.

(emphasis added)

The Office Action states:

As to claim 4, Hamami clearly discloses monitoring the primary VC [step 100 figure 7; column 9, lines 46-48] but is silent or deficient to monitoring the second or redundant connection (i.e., in reference to applicant's recitation of transmitting a plurality of detecting cells along a second virtual connection).

Examiner notes that it would have been obvious to someone skilled in the art to transmit a plurality of detecting cells on each virtual circuit. The motivation being that each virtual circuit or logical connection should be tested for a failure with respect to redundancy. As further motivation, Rubino discloses two ATM management functions, alarm surveillance and connectivity verification [column 5, lines 50-51], where connectivity verification (i.e., the management function that is relevant to the rejection [column 6, lines 59-column 8, line 38]) is performed on more than one PVC [column 3, lines 33-42]. As a result, one would be motivated to also monitor the secondary channel in case the secondary channel goes down and needs to switch back to the primary channel.

(Office Action, 8/22/03, p. 4)(emphasis added).

As shown by the Examiner's argument above, neither Hamami nor Rubino teach transmitting data along a first virtual circuit of a plurality of virtual circuits in a network and a plurality of detecting cells along said first virtual circuit and a second virtual circuit, as recited in claim 4.

However, it appears as if the Office Action is inappropriately attempting find such a teaching through a motivation? Applicants respectfully submit that such an analysis is inapposite. Applicant respectfully submits that in order to render a claim obvious, **all the claim limitations must be found within the references themselves**. Then, there must be some motivation to combine the references to arrive at applicant's claimed invention. (See MPEP 2141)

Here, the Office Action has not identified where the claim limitation of "transmitting data along a first virtual circuit of a plurality of virtual circuits in a network and a plurality of detecting cells along said first virtual circuit and a second virtual circuit" may be found in either of the references. The Office Action asserts that "it would

have been obvious to someone skilled in the art to transmit a plurality of detecting cells on each virtual circuit.” (Office Action, 8/22/03, p. 4). Applicant respectfully submits that the **level of skill in the art cannot be used to supply a missing claim limitation**. Rather, the knowledge of persons of ordinary skill in the art can only be used as a source for a motivation **to combine references that teach different limitations**. (See MPEP 2143.01). As such, applicant respectfully submits that the Office Action has not established a prima facie case of obviousness.

Applicant submits that nothing in Hamami or Rubino, either alone or in combination, teaches or suggests transmitting data along a first virtual circuit of a plurality of virtual circuits in a network and a plurality of detecting cells along said first virtual circuit and a second virtual circuit, as recited in claim 4. Moreover, applicant submits that one of ordinary skill in the art would not be motivated to combine the teachings of Rubino with Hamami. Rubino provides a mechanism **within a router** to trigger a routing table update so that the router is able to reconverge when the status of a logical connection changes. (Rubino, col. 3, lines 5-12 and col. 4, lined 36-61). Hamami teaches that a method that provides a redundancy feature that can be used on a call by call basis **by end user stations**. The Hamami method establishes both a primary and a redundant connection for each connection requested to be redundant. Hamami notes that although some data may be lost until a switchover to the redundant is complete, **this should not pose a major problem as the upper layers in the protocol stack at the end station are able to compensate for the data loss**. (Hamami, col. 2, lined 46-57). As such, one of skill in the art facing the problems confronted by the inventors of Hamami would not be motivate to look to the teachings of Rubino because (1) Hamami does not consider data loss during a switchover to be a major problem that cannot be compensate for by end station protocol stacks; and/or (2) the teachings of Rubino are directed to the

intermediate router operations while Hamami pertains to operations at the end user station.

Therefore, applicant submits that claim 4 is patentable over the cited references. Given that claims 2-3 and 5-13 depend from claim 4, applicant submits that claims 2-3 and 5-13 are also patentable over the cited references.

For reasons similar to those given above with respect to claim 4, applicant submits that claims 15-24, 26-27 and 39-50 are patentable over the cited reference.

Claims 6, 10-12, 17, 20-23, 30, 34-36, 43, and 47-49 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamami in view of Rubino in further view of "Monitoring and Control of ATM Networks Using Special Cells" to Chen et al. ("Chen"). Applicant respectfully submits that Chen fails to cure the deficiency note above with respect to the independent claims from which claims 6, 10-12, 17, 20-23, 30, 34-36, 43, and 47-49 depend. Therefore, claim 6, 10-12, 17, 20-23, 30, 34-36, 43, and 47-49 are patentable over the cited references.

In conclusion, applicants respectfully submit that in view of the arguments set forth herein, the applicable rejections have been overcome.


If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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APPLICATION NO. 09/586,662
AMENDMENT DATED NOVEMBER 21, 2003
REPLY TO OFFICE ACTION OF AUGUST 22, 2003
ANNOTATED SHEET SHOWING CHANGES

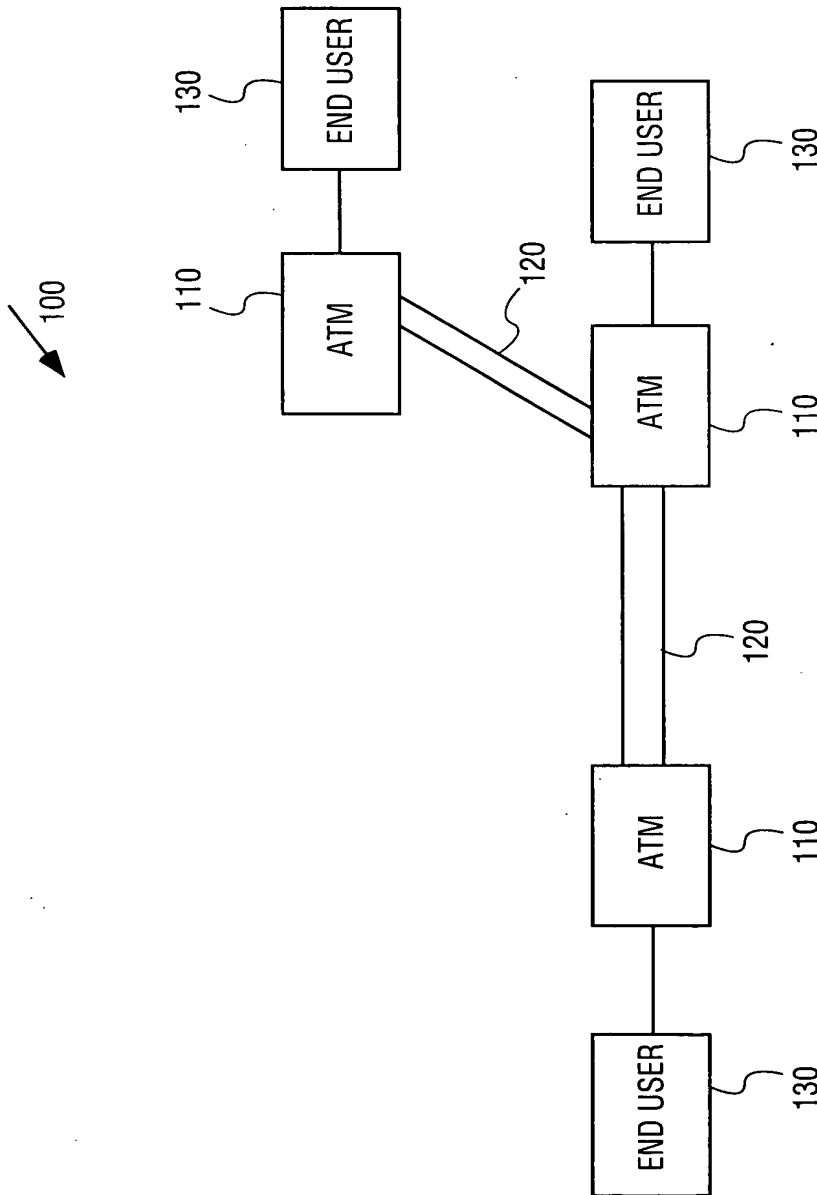


FIG. 1A

(PRIOR ART)

Words "(Prior Art)" added

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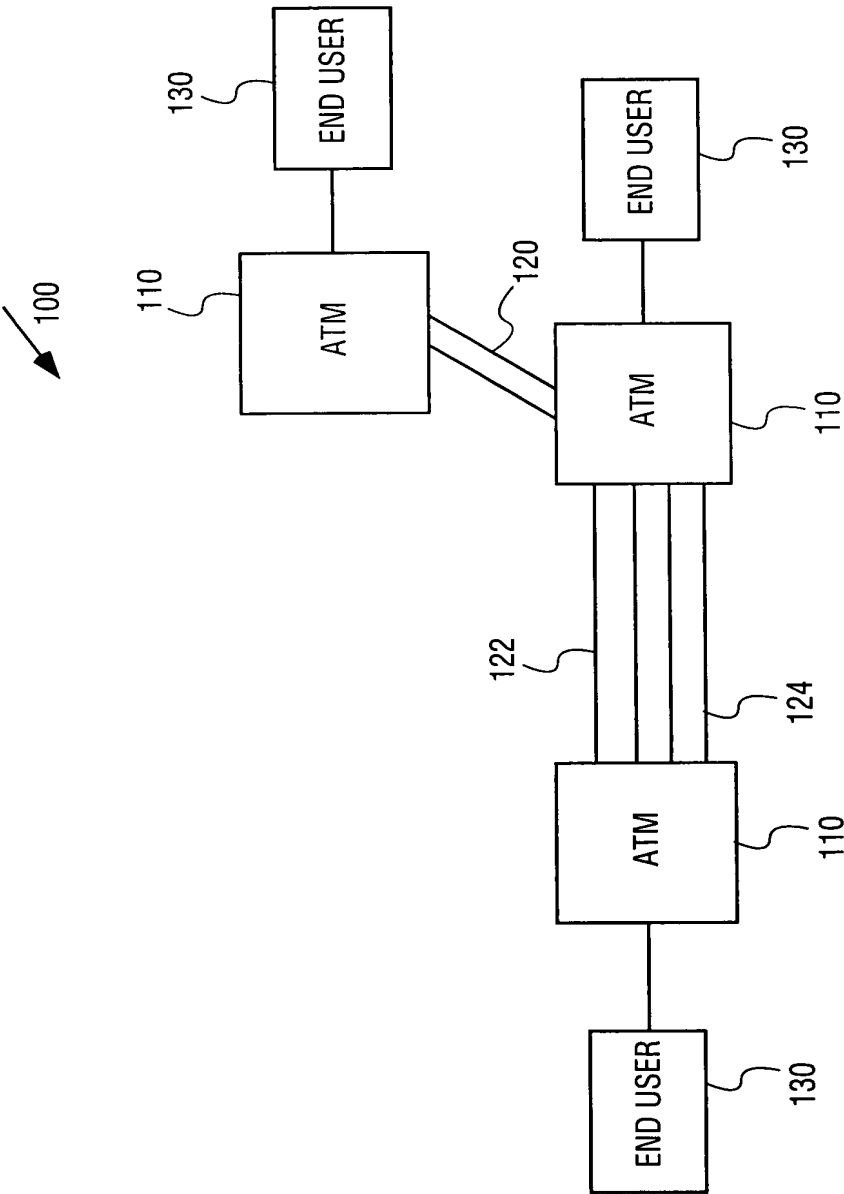


FIG. 1B
(PRIOR ART)

words "(Prior Art)" added



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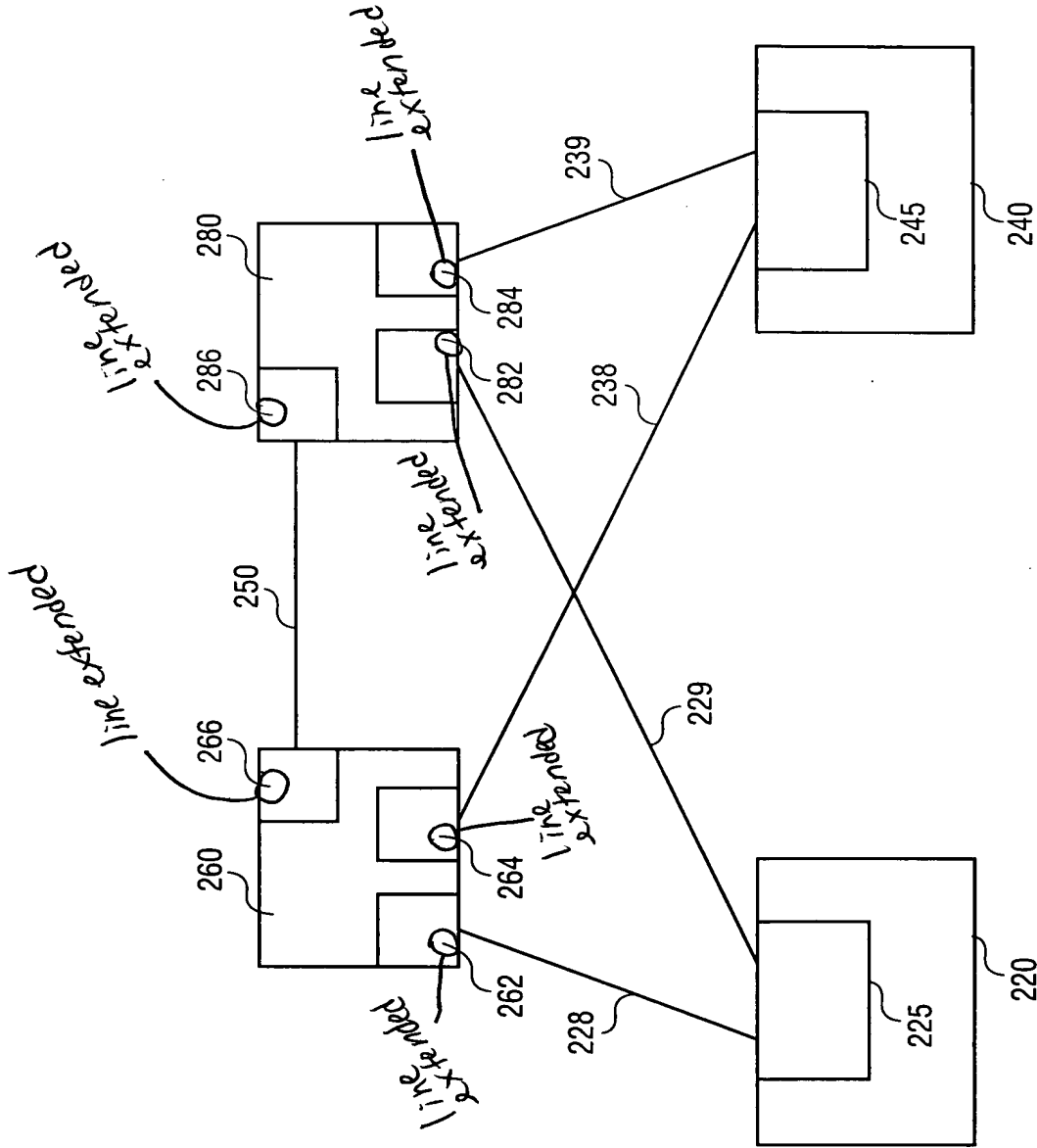


FIG. 3